IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13594 of 2004

Between:

M/s. Vijeta Marines, 6-3-900/5, Rajbhavan Road, Somajiguda, Hyderabad-82, rep by Managing Partner M. Ashok Babu S/o Uma Maheswara Rao R/o LIG-81, Phase No.1 Dharama Reddy Colony,
Near JNTU, Kukatpally, Hyderabd-500 072

..... PETITIONER

AND

State Bank of India, Agri Business, Branch, Abids, Hyderabad-AP

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandmaus declaring the action of the Hon'ble Debt Recovery Tribunal in passing orders in M.A. No. 118/2002 in IA No. 1103/2002 in OA NO. 423/2001 dated 9-7-2003 as illegal, arbitrary and unjust and consequently set aside the same.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondent.: MR.K.SRINIVASAMURTHY

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The order passed by the Presiding Officer, Debts Recovery Tribunal, Hyderabad in I.A.No.1103 of 2002 in O.A.No.423 of 2001 on 16th September, 2002 was challenged by the petitioner by filing appeal before the Debts Recovery Appellate Tribunal, Chennai. The appellate tribunal has also dismissed the appeal on 9-3-2004. The said orders are under challenge in this writ petition.

The respondent-Bank, during the pendency of its claim petition before the tribunal, filed an application under Section 22(h) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 for a direction to the petitioner to deposit the sale proceeds of the stocks with the tribunal so that the same be dealt with in accordance with law. Learned tribunal came to the conclusion that the petitioner had admitted that it had disposed of stock and the stock was valued at Rs.99,74,332/-, which, in fact, had been hypothecated to the respondent-Bank and the petitioner had to repay to the bank the amount claimed in the O.A. The tribunal accordingly directed the petitioner to pay Rs.84,11,595.45 to the respondent-Bank. The appellate authority recorded a finding that stocks stood hypothecated to the respondent-bank and the petitioner had no business to meddle with the stocks. The submission made on behalf of the petitioner that stocks were disposed of without any profit and were not sold but were buried was rejected. The appellate tribunal observed that only the stock which stood hypothecated to the respondent Bank was not available and having come to know of the appointment of the advocate commissioner to take inventory and take possession of the hypothecated stocks, that the petitioner disposed of the stock contrary to the interest of the bank. Therefore, there was nothing wrong in the order of the tribunal in issuing direction to the petitioner to pay the amount corresponding to the amount due and payable in case O.A. is allowed.

We have heard learned counsel for the petitioner and in view of the

concurrent finding recorded by the two authorities below, which are neither illegal nor perverse, no interference is called for in exercise of extraordinary power.

Writ petition is dismissed.

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DEVINDER GUPTA, CJ

10-8-2004

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C.V.RAMULU, J

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To

1. State Bank of India, Agri Business, Branch, Abids, Hyderabad-AP
2. 2 CD copies.